6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R09-OAR-2019-0654; FRL-10014-02-Region 9]

PM10 Maintenance Plan and Redesignation Request; Imperial Valley Planning Area; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve the "Imperial County 2018 Redesignation Request and Maintenance Plan for Particulate Matter Less Than 10 Microns in Diameter (PM_{10})" ("Imperial PM_{10} Plan") as a revision to the California state implementation plan (SIP). The Imperial PM_{10} Plan includes, among other elements, a demonstration of implementation of best available control measures and a maintenance plan that includes an emissions inventory consistent with attainment, a maintenance demonstration, contingency provisions, and motor vehicle emissions budgets for use in transportation conformity determinations. In connection with the approval of the Imperial PM_{10} Plan, the EPA is determining that PM_{10} precursors do not contribute significantly to elevated PM_{10} levels in the area. The EPA is also approving the State of California's request to redesignate the Imperial Valley Planning Area from nonattainment to attainment for the PM_{10} national ambient air quality standards. The EPA is taking these actions because the SIP revision meets the applicable statutory and regulatory requirements for such plans and motor vehicle emissions budgets and because the area meets the Clean Air Act requirements for redesignation of nonattainment areas to attainment.

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2019-0654. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information may not be publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov*. Please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone at 415-972-3964, or by email at Vagenas.Ginger@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms "we," "us," and "our" mean the EPA.

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I. Summary of Proposed Rule

On April 2, 2020 (85 FR 18509), under section 110(k) of the Clean Air Act (CAA or "Act"), the EPA proposed to approve the Imperial PM_{10} Plan submitted by the California Air Resources Board (CARB) by letter dated February 6, 2019, as a revision to the California SIP.[1] In addition, under CAA section 107(d)(3)(D), we proposed to approve CARB's request to redesignate the Imperial Valley Planning Area to attainment for the PM_{10} national ambient air quality standards (NAAQS). We did so based on our conclusion that the area has met, or will meet as part of this action, all the criteria for redesignation under CAA section 107(d)(3)(E).

In our proposed rule, we provided background information on the NAAQS for particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (PM_{10});[2] the area designations and related SIP revision requirements under the CAA; the Exceptional Events Rule (EER) codified at 40 CFR 50.1, 40 CFR 50.14 and 40 CFR 51.930; and the PM_{10} planning for the Imperial Valley Planning Area.[3] In short, in 1987, we established a NAAQS for PM_{10} of 150 micrograms per cubic meter ($\mu g/m^3$), 24-hour average. Under the CAA Amendments of 1990 and based on monitoring data collected in the 1980s, a portion of Imperial County,[4] referred to as the Imperial Valley Planning Area or Imperial Valley nonattainment

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[1] CARB submitted the Imperial PM_{10} Plan electronically on February 13, 2019, as an attachment to a letter dated February 6, 2019.

[2] Particulate matter is the generic term for a broad class of chemically and physically diverse substances that exist as discrete particles (liquid droplets or solids) over a wide range of sizes. Particles originate from a variety of anthropogenic stationary and mobile sources as well as from natural sources. Particles may be emitted directly or form in the atmosphere by transformations of gaseous emissions such as sulfur dioxide (SO_2), oxides of nitrogen (NO_X), volatile organic compounds (VOC), and ammonia (NH_3). The chemical and physical properties of particulate matter vary greatly with time, region, meteorology, and source category. SO_2, NO_X, VOC, and NH_3 are referred to as PM_{10} precursors. In this final rule, we are taking final action to find that precursors do not contribute significantly to elevated ambient PM_{10} concentrations in the Imperial Valley Planning Area.

[3] 85 FR 18509, 18510-18512.

[4] Imperial County encompasses approximately 4,500 square miles in southeastern California. It is home to approximately 190,600 people, and its principal industries are farming and retail trade. It is bordered by Riverside County to the north, Arizona to the east, Mexico to the south, and San Diego County and coastal mountains to the

area,[5] was designated as a nonattainment area for the PM_{10} NAAQS. We classified the Imperial Valley Planning Area as a Moderate, and later, as a Serious nonattainment area for the PM_{10} NAAQS.[6]

In response to the nonattainment designation, CARB and the Imperial County Air Pollution Control District (ICAPCD or "District") adopted control measures, including the District's Regulation VIII ("Fugitive Dust Rules"), and air quality plans to attain the PM_{10} NAAQS in the area. Regulation VIII has been strengthened through various amendments over the years since the area was designated nonattainment and is approved as part of the Imperial County portion of the California SIP. The District then developed the Imperial PM_{10} Plan in light of ambient PM_{10} data that showed that, with concurrences by the EPA on flagged exceptional events under the EER, the area had attained the standard.

For our proposed rule, we reviewed CARB's request for redesignation for compliance with the criteria for redesignation in CAA section 107(d)(3)(E) and determined that the Imperial Valley Planning Area met the criteria for redesignation from nonattainment to attainment for the PM_{10} NAAQS. First, in our proposed rule, based on complete, quality-assured and certified data for the 2014-2018 period, we found that the Imperial Valley Planning Area attained the PM_{10} NAAQS in 2016 and has continued to attain since that time.[7] Our proposed determination of

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west. The Salton Sea straddles the boundary between Riverside and Imperial counties with most of the lake located in the northwest portion of Imperial County.

[5] The Imperial Valley Planning Area encompasses the western and central parts of the County and includes the Imperial Valley. The Imperial Valley runs north-south through the central part of the County. Most of the County's population and industries exist within this relatively narrow land area, which extends about one-fourth the width of the County.

[6] 69 FR 48972 (August 11, 2004).

[7] 85 FR 18509, 18513-18515.

attainment reflects concurrences by the EPA on a number of exceedances that had been flagged as exceptional events by CARB and the District.

Second, in our proposed rule, we found that, with approval of certain SIP elements for which we proposed approval, the Imperial Valley Planning Area will have a fully approved applicable SIP under section 110(k) that meets all applicable requirements under section 110 and part D for the purposes of redesignation.[8] In connection with our determination that all applicable requirements under section 110 and part D were satisfied, we proposed to find, based on CARB's ambient $PM_{2.5}$ mass and speciation analysis, that PM_{10} precursors do not significantly contribute to elevated PM_{10} concentrations in the Imperial Valley Planning Area and will not do so over the course of the initial 10-year maintenance plan. We also proposed to approve the best available control measures (BACM) demonstration included in the Imperial PM_{10} Plan as meeting the requirements of CAA section 189(b)(1)(B) based on our prior approval of the District's Regulation VIII fugitive dust rules and our conclusion that the Regulation VIII rules cover all significant PM_{10} source categories in the Imperial PM_{10} nonattainment area.[9]

Third, based on our previous approval of the District's Regulation VIII fugitive dust rules as part of the Imperial County portion of the California SIP, we proposed to find that the improvement in air quality in the Imperial Valley Planning Area is due to permanent and enforceable emissions reductions.[10] Fourth, we proposed to approve the Imperial PM_{10} Plan as satisfying the requirements for maintenance plans under CAA section 175A.[11] In so doing, we proposed to approve the plan's attainment year (2016) emissions inventory as meeting the

[8] Id. at 18515-18519.
[9] Id. at 18517-18518.
[10] Id. at 18519-18520.
[11] Id. at 18520-18526.

emissions inventory requirements under CAA section 172(c)(3), the plan's maintenance demonstration showing attainment through 2030, the District's commitments to verify continued attainment, and the contingency plan.

Lastly, we proposed to approve the motor vehicle emissions budgets (MVEBs or "budgets") in the Imperial PM_{10} Plan for direct PM_{10} for 2016 and 2030 for transportation conformity purposes because they meet all applicable criteria for such budgets including the adequacy criteria under 40 CFR 93.118(e). The MVEBs are shown in table 1, below. In our proposed rule, we explained that the applicable source categories included in the budgets include vehicle emissions (including exhaust, brake wear, and tire wear) and entrained dust from vehicle travel over paved and unpaved roads. With respect to unpaved road dust, we explained that the budgets include only those emissions generated by vehicle travel over city- and county-owned unpaved roads, not canal roads, farm roads or those owned by the U.S. Bureau of Land Management or the U.S. Forest Service. In addition, we mistakenly noted that the budgets reflect vehicle miles traveled (VMT) throughout the entire County, including the portion of the County that lies outside of the PM_{10} nonattainment area; however, we now understand that the budgets reflect the VMT only within the Imperial Valley Planning Area, not the entire county.[12]

Table 1. Transportation Conformity Budgets for the PM_{10} NAAQS in the Imperial Valley Planning Area - PM_{10} tons per day (tpd), annual average

Source	2016	2030
Tire Wear, Brake Wear and Exhaust	0.4	0.5
Paved Road Dust	1.2	1.5
Unpaved City-County Road Dust	18.4	16.8
Total	20.0	18.8
Motor Vehicle Emission Budget [a]	20	19

[a] Rounded up to the nearest integer.

[12] For this final rule, we have confirmed with CARB and the Southern California Association of Governments (SCAG) that the budgets are based on VMT estimates for the Imperial Valley Planning Area, not the entire County. See email correspondence from Nesamani Kalandiyur, Manager, Transportation Analysis Section, CARB, to Karina O'Connor, Air Planning Office, EPA Region IX, August 7, 2020.

Source: Imperial PM_{10} Plan, Table 4-5.

Please see our April 2, 2020 proposed rule for a detailed discussion of the background for this action and the rationale for our proposed approval of the Imperial PM_{10} Plan and for granting California's request for redesignation of the Imperial Valley Planning Area to attainment.

II. Public Comments and EPA Responses

Our April 2, 2020 proposed rule provided a 30-day public comment period that closed on May 4, 2020. During this period, we received comments from a private citizen and from the Torres Martinez Desert Cahuilla Indian Tribe ("Torres Martinez Tribe" or "Tribe"). A summary of the comments and our responses follow.

Comment 1: The private citizen commenter contends that air pollution and particulate matter in the Imperial Valley will continue to increase as the shoreline of the Salton Sea continues to recede due to reduced water inflows. The commenter asserts that increased exposure of the lakebed will allow toxic particulate matter from the lakebed to become airborne, resulting in adverse public health impacts and adverse effects on farmland and crops downwind of the Salton Sea. The commenter urges the EPA to include ambitious restoration requirements for the Salton Sea as part of this action.

Response 1: The commenter correctly notes that the Salton Sea will continue to recede, exposing an increasing amount of the lakebed. The EPA agrees that this creates the potential for increases in airborne particulate matter from the lakebed that can potentially have adverse impacts on human health and the environment, including on crops.

The Imperial PM_{10} Plan addresses the potential for increased emissions from the Salton Sea. The Plan includes a description of the efforts underway to evaluate and proactively control this emerging source in Chapter 5, "Salton Sea Considerations," in Appendix I, "Salton Sea

Management Program Phase 1: 10-Year Plan (March 2017)," and in Appendix J, "Salton Sea Air Quality Mitigation Program (July 2016)."[13]

As we noted in our proposed rule, these efforts include the State's establishment in 2015 of the Salton Sea Task Force, which has developed a 10-year plan that endeavors to expedite wildlife habitat construction and to suppress dust from playa that will be exposed in the future. The Imperial Irrigation District's Salton Sea Air Quality Mitigation Program, which applies in addition to other programs and requirements, represents another of these efforts. It includes three components: a monitoring program and development of an emissions inventory; a dust control strategy that includes the development and testing of dust control measures; and the implementation of an annual proactive dust control plan that includes performance modeling.

The District also notes that state law and water transfer permits include requirements to control PM_{10} emissions from exposed lakebed, and that District Rule 804, which requires the control of fugitive dust from open areas, also applies to the playa. In our notice of proposed rulemaking, we explained that Rule 804 provides that all persons who own or otherwise have jurisdiction over an open area are required to choose from a list of best available control measures to achieve a stabilized surface and to limit visible dust emissions to 20 percent opacity. All EPA-approved District rules, including Rule 804, are enforceable by the EPA and by citizens.[14] Of note, in June 2020, the District issued notices of violations to the Imperial

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[13] The District summarizes the approach to controlling dust from the lakebed as follows:

> The Salton Sea will continue to shrink, especially as drainage flows from local agricultural use are significantly reduced in 2017 and beyond. Stabilizing the parts of the playa expected to be emissive as they are exposed will minimize dust. The State's Salton Sea Management Program (SSMP) and Phase I Plan and [the Imperial Irrigation District's] Salton Sea Air Quality Management Program (SS AQM Program) are designed to proactively provide reasonable controls as the playa is exposed. 2016 Amendments to ICAPCD Rule 804 allow establishment of alternate BACM on exposed playa that is not stabilized; this provides an adopted contingency mechanism for any emissive playa that is not stabilized as it is exposed. Imperial PM_{10} Plan, 5-1.

[14] See CAA sections 113 and 304.

Irrigation District and the U.S Fish and Wildlife Service for alleged violations of dust controls required by District rules. While the specific restoration projects at the Salton Sea are not a part of the Imperial PM_{10} Plan, enforcement of District Regulation VIII fugitive dust rules, particularly Rule 804, provide a mechanism to ensure that such projects include and implement reasonable dust controls that will reduce airborne dust emissions, including any toxic constituents in those emissions, and related downwind impacts.

Comment 2: The Torres Martinez Tribe does not support the proposed redesignation and is very concerned about existing elevated levels of PM_{10} in the region and the likely increase in PM_{10} emissions from the lowering of the Salton Sea. The Tribe finds the effort to redesignate Imperial County attainment for the PM_{10} NAAQS to be completely contrary to the Imperial County Board of Supervisors' unanimous vote to declare a Local State of Emergency at the Salton Sea. The Tribe further notes that local media has reported that Imperial County's Public Health Officer has expressed concerns about public health due to dust storms, citing the high and increasing asthma rates.

Response 2: With respect to existing elevated levels of PM_{10}, in our proposed rule, we reviewed the ambient PM_{10} data for years 2014 through 2018 collected by CARB and the District at the various monitoring sites in the Imperial Valley Planning Area and found that the area has attained the PM_{10} NAAQS. The data from 2014 through 2018 included a number of exceedances of the PM_{10} NAAQS that were flagged by CARB and the District as exceptional events due to high winds. As noted in the proposed rule, we reviewed the exceptional events documentation provided by CARB and the District for compliance with the EER and concurred that 91 exceedance days qualify for exclusion under the EER. Under the EER, exceedances flagged as exceptional events for which the EPA issues concurrences are excluded from

determinations made in connection with area redesignations.[15] Thus, while we acknowledge the occurrence of elevated PM_{10} concentrations in the Imperial Valley Planning Area, we have determined that, once exceptional events are excluded, as provided for under the EER, the area attained the PM_{10} NAAQS in 2016 and continued to attain the standard in 2017 and 2018. We have also reviewed the ambient PM_{10} data for 2019 and the first half of 2020 and find that they are consistent with continued attainment of the PM_{10} NAAQS in the Imperial Valley Planning Area.

With respect to the potential for increases in airborne PM_{10} that could result from the increased exposure of the lakebed around the Salton Sea, we share the Tribe's concern. As we describe in response to Comment 1, there are mechanisms in place and efforts underway to proactively address this emerging issue. Should these efforts fall short, the District, the EPA, and citizens are able to enforce the District's EPA-approved rules, including Rule 804, which requires that persons who own or otherwise have jurisdiction over an open area, including the exposed lakebed, achieve a stabilized surface and limit opacity to 20 percent.

Lastly, we acknowledge the Imperial County Board of Supervisors' proclamation of a local emergency for air pollution at the Salton Sea but do not view the proclamation as irreconcilable with the redesignation request also adopted by the Imperial County Board of Supervisors (as members of the Imperial County Air Pollution Control Board of Directors).[16] In our proposed rule, we noted that the proclamation was based primarily on ambient PM_{10} concentration data collected at two nonregulatory monitors located immediately west of the Salton Sea at Salton City and Naval Test Base that showed exceedances of the PM_{10} NAAQS.

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[15] 40 CFR 50.14(a)(1)(i)(A) and (b)(1).

[16] The proclamation was transmitted to the State via a letter dated November 4, 2019, from Tony Rouhotas, Jr., County Executive Officer, to Gavin Newsom, Governor of the State of California.

Nonregulatory monitors are those that have not been determined to meet the applicable requirements in 40 CFR part 50, 53 and 58, which include detailed sampling, siting, and quality assurance requirements. The data from nonregulatory monitors are not considered in determining whether an area attained or failed to attain the NAAQS, but the data are appropriate for other purposes. In this case, under the Salton Sea Air Quality Mitigation Program, the nonregulatory data are used to produce the annual emissions inventories, assemble dust control plans, and evaluate the performances of the dust control plans.[17]

The State of California's initial response to Imperial County's proclamation is contained in a letter dated January 6, 2020, from Wade Crowfoot, Secretary for Natural Resources and Jared Blumenfeld, Secretary for Environmental Protection (referred to herein collectively as the "State"), which is included in the docket for this rulemaking. The letter from the State acknowledges the urgent public health problem posed by the Salton Sea and outlines the significant work underway[18] to address the concerns voiced by the County supervisors. The letter also notes that "a study funded by the National Institute of Health is currently underway to determine the health effects of childhood exposure to particulate matter and inform public health action in the Imperial Valley."[19] Thus, rather than viewing the proclamation of local emergency as contrary to the redesignation request, we find the County's proclamation and the State's response to be further evidence that the emerging playa at the Salton Sea will be appropriately

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[17] Imperial PM_{10} Plan, 5–5.

[18] Among other things, the State agencies cite progress on agreements that will allow for a 3,770 acre species conservation habitat project to move forward, the acceleration of dust suppression projects that will help ensure the exposed lakebed does not worsen air quality, and the development of a Dust Suppression Action Plan.

[19] More information about the study, "The Salton Sea and Children's Health: Assessing Imperial Valley Respiratory Health and the Environment," is available at *https://www.niehs.nih.gov/research/supported/translational/peph/prog/rta/cfg/usc/index.cfm.*

controlled to reduce dust impacts as anticipated in the maintenance demonstration of the Imperial PM_{10} Plan.[20]

Finally, we note that, in support of the redesignation request, the Imperial PM_{10} Plan includes a maintenance plan and related contingency provisions to address future violations of the PM_{10} NAAQS that are recorded at any of the regulatory monitoring sites after redesignation of the area to attainment. In accordance with the contingency provisions in the Imperial PM_{10} Plan, if the EPA determines that contingency provisions have been triggered by a violation of the PM_{10} NAAQS in the Imperial Valley Planning Area, the District would have 18 months from the EPA notification date to evaluate the cause of the exceedance and to take the appropriate action.[21] Such action could include strengthening the fugitive dust rules in District Regulation VIII as necessary to address windblown dust off the playa if such dust is found to be the cause of the violation. The contingency provisions in the Imperial PM_{10} Plan thereby provide support for the ongoing effort to address the dust issues associated with emerging playa around the Salton Sea.

Comment 3: The Tribe asserts that the redesignation proposal will potentially allow or make it easier for new sources of PM_{10} to begin emitting in the area.

Response 3: The District is responsible for the regulation of stationary sources and its rules govern the issuance of air permits. While no PM_{10} controls in the SIP would be relaxed or suspended upon redesignation of the area to attainment, federal permitting requirements for new or modified major stationary sources would shift from the District's federal nonattainment new source review (NNSR) program to its prevention of significant deterioration (PSD) program.

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[20] 85 FR 18509, at 18522-18523.

[21] The contingency plan is contained in Section 4.4 of the Imperial PM_{10} Plan. The contingency plan is considered to be an enforceable part of the SIP.

NNSR requires the application of the highest level of control (lowest achievable emissions rate or LAER) to sources that have the potential to emit 70 tons of PM_{10} per year and the offsetting of new emissions.[22] PSD requires best available control technology and a demonstration that the source (or major modification) will not cause significant deterioration of air quality or interfere with attainment or maintenance of the NAAQS for sources that emit more than 100 tons per year for certain listed source categories, or 250 tons per year for unlisted categories.[23] Upon redesignation to attainment, new PM_{10} major sources and major modifications with significant PM_{10} emissions at major sources will be required to obtain a PSD permit or address PM_{10} emissions in their existing PSD permit. Sources with potential emissions below the major threshold are subject to the District's minor new source review program. Under federal minor NSR SIP requirements, compliance with SIP rules and a determination that the new or modified source will not interfere with attainment or maintenance of the NAAQS is required.[24] Thus, although new or modified stationary sources emitting PM_{10} emissions greater than the applicable NNSR thresholds would no longer be subject to the LAER or offset requirements once the area is redesignated, the minor source and PSD programs would ensure that permits would include conditions intended to assure compliance with applicable District rules, such as

[22] CAA sections 172(c)(3), 173, 189(a)(1)(A) and 189(b)(3). District Rule 207 ("New and Modified Stationary Source Review") is the District's rule implementing federal NNSR requirements. We approved District Rule 207 as meeting the NNSR requirements for PM_{10} at 82 FR 41895 (September 5, 2017).
[23] 40 CFR 52.21(b)(1), (j) and (k) (July 1, 2012 CFR version). District Rule 904 ("Prevention of Significant Deterioration (PSD) Permit Program") is the District's rule incorporating the PSD requirements in 40 CFR 52.21. We approved Rule 904 at 77 FR 73316 (December 10, 2012).
[24] 40 CFR 51.160(a). The District's minor source program is also contained in District Rule 207. District Rule 207, section (D.1.c) requires authorities to construct for all new or modified stationary sources to include conditions necessary to assure compliance with District rules, such as the fugitive dust rules in Regulation VIII, and section (F.) sets forth the air quality impact analysis requirements for new or modified stationary sources, including a demonstration that a new or modified source would not cause or worsen a NAAQS violation.

Regulation VIII, and would only be issued if the applicant demonstrates that the new or modified source would not cause a violation of the NAAQS.

Comment 4: The Tribe believes flawed or inadequate analyses were utilized in the proposed redesignation. First, the Tribe is concerned that CARB and Imperial County APCD certified their monitoring data as complete and accurate, despite some monitors being incorrectly configured or operated in such a way that they couldn't accurately measure concentrations of PM_{10} greater than 985 or 995 $\mu g/m^3$, which are known to be present in the region. Consequently, the Tribe contends that the data are biased low. The Tribe notes that the dataset includes numerous hourly PM_{10} values of 985 or 995 $\mu g/m^3$, which are the maximum concentrations that samplers were configured to record. According to the Tribe, the actual, accurate measurements are most likely higher than the concentration values submitted to the EPA and certified as accurate.

The Tribe asserts that this inaccuracy (bias low) in the highest and most important measurements of the dataset affects the analysis in two ways. First, for days where the NAAQS was exceeded and monitors recorded values of 985 or 995 $\mu g/m^3$, accurate information about the spatial distribution of PM_{10} measurements across the region was not available for the exceptional events analysis, and this lack of accurate data to access the spatial distribution of PM_{10} across the region limits the exceptional events analysis and conclusions. Second, days that did not appear to have exceeded the NAAQS but had high winds and one or more hourly values of 985 or 995 $\mu g/m^3$, likely would have exceeded if the actual concentrations had been accurately recorded. The Tribe believes that days such as these should have been included in the exceptional events analysis.

The Tribe asserts that CARB and the District knowingly operated these monitors and reported low biased concentrations for the over-range hours, although the sampler manufacturer provided a variety of options for obtaining the correctly calculated hourly values. These options included changing the sampler range to allow measurements in the range known to occur in the region as well as manually retrieving the over-range values from a file contained in the sampler's memory. The Tribe notes that, during this period, the Torres Martinez PM_{10} monitoring program (using the same type of monitor) was able to operate their PM_{10} sampler, following manufacture's guidance, to accurately measure values greater than 995 $\mu g/m^3$.

Response 4: Attainment of the PM_{10} NAAQS is determined by measuring PM_{10} in ambient air using either a Federal Reference Method (FRM) or a Federal Equivalent Method (FEM) in accordance with 40 CFR part 53. During the data years associated with this action (2014-2018), both CARB and ICAPCD operated Met One Beta Attenuation Monitor (BAM) 1020 PM_{10} monitors, which are designated as FEM monitors (EQPM-0798-122), at monitoring sites in the Imperial PM_{10} nonattainment area. Data from these monitors form part of the data record used in this action. The method is further described in the EPA List of Designated Reference and Equivalent Methods.

Historically, the maximum concentration that this monitor could measure was a function of two instrument settings: the offset, which sets the minimum concentration measured by the instrument, and the range, which sets the full-scale range of the concentration measurement system. The standard range setting for the BAM 1020 is 1,000 $\mu g/m^3$ with a default offset of -15 $\mu g/m^3$. For this reason, the maximum full-scale concentration that can be measured using the standard range and default offset is 985 $\mu g/m^3$. There are also several optional range settings, up to 10,000 $\mu g/m^3$. The FEM designation does not list specifications for the selection of the range

and offset values to be used by the instrument but states that the "[i]nstrument must be operated in accordance with the appropriate instrument manual."[25]

The BAM 1020 instrument manual has been revised many times since its initial FEM designation, including several revisions during the 2014 to 2018 time period. An early revision of the BAM 1020 instrument manual relevant to the earliest data used in this action (revision K, released in October 2012) and a more recent revision (revision U, released in November 2017) both include information concerning the standard and optional ranges.[26] The 1,000 µg/m^3 setting is consistently described as the standard range setting. Both versions of the manual state that the range may be set higher; however, increasing the range setting reduces the digital resolution at lower concentrations. The manuals caution against setting the range higher than the standard range unless necessary, due to this loss of resolution.

After evaluation and consideration of these factors, including the potential loss of resolution at lower concentrations, CARB and ICAPCD chose to transition from the standard range to one of the other optional ranges. The CARB-operated Calexico (AQS ID: 06-025-0005) monitors' upper range was increased to 5,000 µg/m^3 on December 5, 2017. The ICAPCD-operated Brawley (AQS ID: 06-025-0007), El Centro (AQS ID: 06-025-1003), Niland (AQS ID: 06-025-4004), and Westmorland (AQS ID: 06-025-4003) monitors' upper ranges were increased to measure concentrations to 10,000 ug/m^3 on August 30, 2018, March 16, 2018, January 28, 2019, and December 27, 2018, respectively. While hourly data collected prior to these dates is

[25] EPA, Center for Environmental Measurements & Modeling, Air Methods & Characterization Division (MD-D205-03), *List of Designated Reference and Equivalent Methods*, June 15, 2020.
[26] These manuals were selected as appropriate references for instrument operation based on their coverage and applicability to the 2014-2018 data record. The FEM designation does not require that agencies must use only the most recent version of the manual, and agencies typically require time to implement updated manual releases into their operational and quality assurance procedures.

subject to the limitations of the standard range setting, during that period the instrument was operated consistent with the method designation, the instrument manual, and relevant EPA regulations (40 CFR parts 50, 53, and 58); and the EPA therefore considers this data valid and appropriate for use in comparison to the NAAQS.

The EPA disagrees with the Tribe's assertion that on days where the NAAQS was exceeded and at least one monitor reported an hourly concentration at the maximum value allowed by the range setting, the inaccuracy of this value limits the exceptional events conclusions and analysis. The EPA reviews the information and analyses in an air agency's exceptional events demonstration package using a weight of evidence approach. The EPA considers a variety of evidence when evaluating whether the exceptional event criteria were met, and weighs the available evidence based on its relevance, degree of certainty, persuasiveness, and other considerations appropriate to the individual pollutant, as well as the nature and type of event. As further described in the response to the following comment, the EPA considered many types of analyses in its consideration of the exceptional event demonstrations concurred on in this action, several of which are independent of the hourly data reported by the instrument. Concerns that the highest hourly concentrations reported by the instrument may have been artificially low for some events do not undermine the weight of evidence showing that there was a clear causal relationship between the monitored exceedances and the associated high wind dust events.

The EPA also disagrees with the Tribe's assertion that days that did not exceed the NAAQS but at least one monitor reported an hourly concentration at the maximum value allowed by the range setting should have been reviewed as exceptional events. As described above, the EPA considers the reported data valid and appropriate for use in comparison to the

NAAQS. The days referenced by the Tribe are therefore not eligible for treatment as exceptional events because they do not contribute to an exceedance or violation of any NAAQS.

Finally, data collected after all instruments were re-ranged continue to be consistent with attainment of the NAAQS in the Imperial Valley Planning Area. Based on certified 2019 data available in the Air Quality System (AQS), only two exceedance days were recorded in 2019: May 16, 2019 at Brawley and May 21, 2019 at Brawley, Niland and Westmorland. Preliminary 2020 data available in AQS and AirNow Tech indicate that no PM_{10} exceedances were measured in the Imperial Valley Planning Area through June 30, 2020. While the lower number of exceedances may be the result of multiple factors, including changes in weather, more recent data continue to be consistent with the EPA's finalization of this action.

Comment 5: The Tribe is concerned that some exceptional events analyses did not consider that the non-homogenous pattern of spatial impacts across the region could indicate that the exceedances were not due to transport from areas with sustained winds speeds of greater than 25 miles per hour (mph), but instead were due to poorly controlled local emissions in areas that were not experiencing sustained wind speeds of greater than 25 mph and therefore would not qualify for exclusion. The Tribe notes that some of the exceptional events days excluded from the data set showed dramatic variations in measured PM_{10} between nearby sites. The exceptional events analysis made the case that the exceedance was due to transport of emissions from an outside area that experienced sustained winds greater than 25 mph. According to the Tribe, one would expect transported emissions to affect nearby monitoring sites in a somewhat homogenous fashion, which did not occur in some cases, suggesting that these exceedances were primarily caused by poorly controlled local emissions where there were not sustained winds greater than 25 mph.

Response 5: Exceptional events demonstrations for high wind dust events must show that there exists a clear causal relationship between the specific high wind dust event and the monitored exceedance at each monitor, i.e., the demonstrations must address this criteria for each individual monitor that measured an exceedance caused by the particular event. Contrary to the commenter's statement, spatial homogeneity of high PM_{10} concentrations is not always expected with a high wind dust event and a homogenous increase in PM_{10} concentrations is not a necessary factor to demonstrate a clear causal relationship between a high wind dust event and observed exceedances. The EPA evaluated other analyses and evidence provided in the demonstrations and related addenda and concluded that the weight of the evidence established a clear causal relationship between each specific high wind dust event and each individual concurred exceedance. These analyses in the demonstrations typically included information such as: historical PM_{10} monitoring data; time-series graphs and tables of PM_{10} concentrations, wind speeds, wind gusts, and wind directions; hourly PM_{10} concentrations; National Oceanic and Atmospheric Administration (NOAA) Hybrid Single Particle Lagrangian Integrated Trajectory Model (HYSPLIT) back trajectories showing potential source regions; upwind wind speed and directions; and National Weather Service (NWS) reports and advisories.

The Tribe specifically expressed concern that spatial non-homogenous exceedances were a result of local sources of emissions with wind speeds less than 25 mph rather than transport from areas with sustained winds greater than 25 mph. For these exceedances, the EPA believes that the clear casual analyses demonstrated that the exceedances were caused by high wind dust exceptional events. In instances where the high winds that generated dust emissions were measured outside of the Imperial Valley Planning Area, NOAA HYSPLIT trajectories included in the demonstrations were consistent with transport from those outside areas. This, along with

other supporting documentation and analyses in the demonstration, indicates that a clear causal relationship existed between the specific high wind dust event and the monitored exceedances.

Further, the EPA believes that the demonstrations addressed the potential influence of poorly controlled local sources in showing that the events were not reasonably controllable. High wind dust demonstrations must address this criterion by showing that reasonable measures to control the influence of event-related emissions on air quality were implemented at the time of the event. This includes an assessment of relevant natural and anthropogenic sources that may be causing or contributing to the monitored exceedances, including the contribution from local sources; identification of the relevant SIP or other enforceable control measures in place for these sources and the implementation status of these controls; and evidence of effective implementation and enforcement of the identified enforceable control measures.[27] In addressing the not reasonably controllable or preventable criterion, deference is given to measures in a SIP approved 5 years or less prior to the event and addresses the event-related pollutant and all relevant sources.[28]

For concurred events between 2014 and 2017, the EPA had approved the PM_{10} SIP for the Imperial County PM_{10} nonattainment area within the previous 5 years; it is therefore presumed that there were reasonable controls for local sources in place at the time of the event. For concurred 2018 events where the applicable SIP's approval date was more than 5 years from the event, the demonstrations provided additional information indicating that there were reasonable controls for local sources in place at the time of the event, and the EPA further

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[27] EPA, Office of Air Quality Planning and Standards, Guidance on the Preparation of Demonstrations in Support of Requests to Exclude Ambient Air Quality Data Influenced by High Wind Dust Events Under the 2016 Exceptional Events Rule, EPA-457/B-19-001, April 2019, page 11.
[28] 40 CFR 50.14(b)(8)(v).

assessed controls in the addendum to the relevant Technical Support Documents (TSDs). Finally, the demonstrations also provided evidence of effective implementation and enforcement of the relevant controls. As further outlined in the EPA TSDs, the EPA therefore concluded that the not reasonably controllable or preventable criterion was met for all concurred events.

III. Final Action

Under CAA section 110(k)(3), for the reasons set forth in this final rule and in our proposed rule, the EPA is approving the Imperial PM_{10} Plan submitted by CARB by letter dated February 6, 2019, as a revision to the California SIP. In so doing, the EPA is approving the BACM demonstration and attainment inventory included as part of the Imperial PM_{10} Plan as meeting the requirements of CAA sections 189(b)(1)(B) and 172(c)(3), respectively. We are approving the maintenance demonstration and contingency provisions as meeting all applicable requirements for maintenance plans and related contingency provisions in CAA section 175A. The EPA is also approving the motor vehicle emissions budgets for 2016 and 2030 (shown in Table 1, above) because we find they meet all applicable criteria for such budgets including the adequacy criteria under 40 CFR 93.118(e) and is determining that the submitted 2016 and 2030 budgets included in the Imperial PM_{10} Plan (20 tpd and 19 tpd, respectively) are adequate for transportation conformity purposes.[29]

In addition, under CAA section 107(d)(3)(D), we are approving CARB's request to redesignate the Imperial PM_{10} Planning Area from nonattainment to attainment for the PM_{10} NAAQS. We are doing so based on our conclusion that the area has met, or will meet as part of this action, all the criteria for redesignation under CAA section 107(d)(3)(E). More specifically,

[29] Pursuant to 40 CFR 93.118(f)(2)(iii), the EPA's adequacy determination is effective upon publication of this final rule in the *Federal Register*.

we find the following: that the Imperial PM_{10} nonattainment area has attained the PM_{10} standard based on quality-assured, certified, and complete PM_{10} data;[30] that relevant portions of the California SIP are, or will be as part of this action, fully approved; that the improvement in air quality is due to permanent and enforceable reductions in emissions; that California has met all requirements applicable to the Imperial PM_{10} nonattainment area with respect to section 110 and part D of the CAA given our approvals of the BACM demonstration and the attainment inventory in the Imperial PM_{10} Plan, as finalized herein; and that the Imperial PM_{10} nonattainment area will have a fully approved maintenance plan meeting the requirements of CAA section 175A, as finalized herein. In connection with the above approvals and determinations, and as authorized under CAA section 189(e), we are determining that PM_{10} precursors do not contribute significantly to PM_{10} exceedances in the Imperial PM_{10} nonattainment area.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographic area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. Redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42

[30] The proposed determination of attainment in the proposed rule was based on quality-assured, certified, and complete data (2014-2018) available at that time. Since publication of the proposed rule, CARB and ICAPCD have certified year 2019 data, and we find that the data collected in 2019 are consistent with continued attainment of the PM_{10} NAAQS in the Imperial Valley Planning Area. In addition, we have reviewed preliminary data collected from January through June 2020 and find that they too are consistent with continued attainment.

U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves a State plan and redesignation request as meeting federal requirements and do not impose additional requirements beyond those imposed by state law. For these reasons, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the State plan the EPA is approving does not apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule, as it relates to the maintenance plan, does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). However, the redesignation does apply to Indian country within the nonattainment area. In those areas of Indian country, the redesignation action will not result in the relaxation of measures and programs currently in place to protect air quality and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). The EPA invited the Torres Martinez Desert Cahuilla Indians and the Quechan Tribe of the Fort Yuma Indian Reservation, who have lands within the Imperial PM_{10} nonattainment area, to consult on this action. The Torres Martinez Desert Cahuilla Indians accepted our invitation, and consultation was conducted on December 8, 2019 and on January 6, 2020.

The Congressional Review Act, 5 U.S.C. section 801 *et seq*., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 17, 2020.

John Busterud,
Regional Administrator,
Region IX.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F – California

2. Section 52.220 is amended by adding paragraph (c)(541) to read as follows:

§52.220 Identification of plan - in part.

* * * * *

(c) * * *

(541) The following plan was submitted on February 13, 2019 by the Governor's designee as an attachment to a letter dated February 6, 2019.

(i) [Reserved]

(ii) *Additional materials.* (A) Imperial County Air Pollution Control District.

(*1*) Imperial County 2018 Redesignation Request and Maintenance Plan for Particulate Matter Less Than 10 Microns in Diameter, adopted October 23, 2018, excluding appendix B ("Executed Settlement Agreement") and appendix F ("Regulation VIII Fugitive Dust Rules").

(*2*) [Reserved]

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C—Section 107 Attainment Status Designations

4. Section 81.305 is amended in the table entitled "California—PM-10," by revising the entries for "Imperial County" and "Imperial Valley planning area: That portion of Imperial County that is defined as follows:" to read as follows:

§81.305 California.

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California—PM-10

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * *	*	*	*	*
Imperial County:				
Imperial Valley planning area: That portion of Imperial County that is defined as follows:	[**INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER**]	Attainment		
Commencing at the southwest corner of Imperial County and extending north along the Imperial-San Diego County line to the northwest corner of Imperial County; then east along the Imperial-Riverside County line to the				

	point of intersection of the eastern boundary line of Hydrologic Unit #18100200; then southeasterly along the eastern boundary line of Hydrologic Unit #18100200 to the Imperial County-Mexico Border; then west along the Imperial County-Mexico Border to the point of the beginning					
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[FR Doc. 2020-18427 Filed: 9/16/2020 4:15 pm; Publication Date: 9/18/2020]